

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)

Advanced Television Systems and)
Their Impact upon the Existing)
Television Broadcast Service)

MM Docket No. 87-268

To: The Commission - Mail Stop 1170

REPLY OF THE COMMUNITY BROADCASTERS ASSOCIATION

1. The Community Broadcasters Association (CBA) filed a petition for reconsideration in the above-captioned proceeding on June 12, 1997. CBA has been served with oppositions by the Association for Maximum Service Television, Inc. and the Broadcasters Caucus (MSTV) and the Association of America's Public Television Stations and the Public Broadcasting Service (Public Television). This is CBA's reply to MSTV and Public Television.

2. MSTV attacks CBA's arguments that the Commission's actions in the *Sixth Report and Order* violated Section 307(b) of the Communications Act and the Sunshine Act. CBA does not agree with MSTV's analysis. The plain fact is that many communities will be deprived of their only local television service if the Commission's DTV allotment table stands, for the purpose of providing other communities with multiple services, up to 10 or more. Whatever labels are applied to different services, the fact is that both full power and low power TV stations provide television programming, including valuable news and information; and the Commission's action will both concentrate television sources and leave some communities with none. That is not a "distribution" of frequencies, fair, efficient, equitable or otherwise. It is the concentration of frequencies, which is not what Congress had in mind when it enacted the

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statute. The quotation at the end of MSTV's footnote 66 is valid: the question is whether television service is adequately distributed. The Commission's action will leave some with no service, which is not adequate distribution.

3. MSTV's attack on CBA's Sunshine Act argument is equally unavailing. No one denies that *ex parte* meetings were in fact held; and it is clear from the large number of reconsideration petitions that were filed that many entities, full and low power alike, do not agree with the outcome. The suggestion that CBA may have had an opportunity itself to meet behind closed doors (MSTV fn. 71) is not and has never been an answer to the Sunshine problem. The law was intended to avoid a contest as to who could hold the most private meetings. There was an easy answer -- to hold the public meeting later, when there was time for adequate notice.

4. MSTV is also not correct that CBA was not prejudiced by the lack of notice of the meeting, because CBA knew the target date for the meeting. Maybe CBA did know the "target" date; but since the Commission gave no advance public notice of the meeting, how was CBA to know that it would in fact be held but that there was a free opportunity -- and a need -- to lobby, or perhaps to counter-lobby, during the final hours? And even if CBA did know, it does not have the lobbying resources of MSTV, was not invited to attend any meetings and so had no input to any "consensus" that might have been claimed but did not in fact exist, and could not have matched whatever influence those who did meet had on the Commission during those final hours. Finally, given the fact that the digital allotment table does not protect LPTV stations or even take them into account, it can hardly be said that the low power television

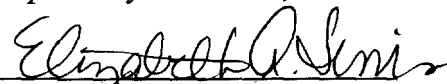
industry was not prejudiced by whatever arguments were made to the Commission that contributed to that result.

5. It is unfortunate that Public Television places as little value as it does on LPTV stations, while arguing for protection for their own translators which originate no programming. Localism is the essence of the American broadcasting tradition and should be as highly valued by public television as by anyone else. Public affairs from a state capital relayed on translators throughout the state is no substitute for coverage of local city council meetings, for which LPTV stations are often the only source. CBA hopes that Public Television will learn to appreciate more the value of the service that LPTV stations provide.

6. In sum, CBA stands by all the arguments it made in its petition for reconsideration and hopes that the Commission will give them favorable consideration. If the Commission feels that nothing can be done to help LPTV, CBA respectfully disagrees and will pursue its remedies in whatever forums remain available to it.

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Respectfully submitted,


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July 30, 1997

CERTIFICATE OF SERVICE

I, Vanessa N. Duffy, hereby certify that on this 30th day of July, 1997, copies of the foregoing Reply of the Community Broadcasters Association have been served by U.S. first-class mail, postage prepaid, upon the following:

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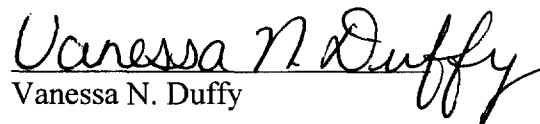
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